

AMENDED IN SENATE JUNE 18, 2008

AMENDED IN ASSEMBLY APRIL 21, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2291**

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**Introduced by Assembly Member Mendoza**

February 21, 2008

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An act to add and repeal Article 5.7 (commencing with Section 18755) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2291, as amended, Mendoza. Taxpayer contributions: Low Cost/Free Spay-Neuter Fund.

Existing law, relating to the administration of personal income taxes, authorizes individual taxpayers to contribute amounts in excess of their tax liability for the support of specified funds or accounts.

This bill would allow taxpayers to designate on their tax returns, that a specified amount in excess of their tax liability be transferred to the Low Cost/Free Spay-Neuter Fund, which would be created by this bill. However, the bill would provide that a voluntary contribution designation for this fund may not be added on the tax return until another voluntary contribution designation is removed from the return.

This bill would provide that all money contributed to the fund pursuant to these provisions, upon appropriation by the Legislature, be allocated to the Franchise Tax Board and the Controller for reimbursement of

costs, as provided, and to the Department of Food and Agriculture for ~~allocation to~~ *distribution of grants to eligible* municipal shelters, *as specified*, for the purposes of providing low cost or free spay-neuter services and for administrative costs.

This bill would provide that these voluntary contribution provisions are repealed on either January 1 of the ~~fifth~~ *5th* taxable year following the taxable year the fund first appears on the personal income tax return, or on January 1 of an earlier calendar year, if the Franchise Tax Board estimates that the annual contribution amount will be less than \$250,000, or an adjusted amount for subsequent taxable years.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Article 5.7 (commencing with Section 18755) is  
2     added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and  
3     Taxation Code, to read:

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5             Article 5.7. Low Cost/Free Spay-Neuter Fund  
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7     18755. (a) An individual may designate on the tax return that  
8     a contribution in excess of the tax liability, if any, be made to the  
9     Low Cost/Free Spay-Neuter Fund established by Section 18755.1.  
10    That designation is to be used as a voluntary contribution on the  
11    tax return.

12    (b) The contributions shall be in full dollar amounts and may  
13    be made individually by each signatory on a joint return.

14    (c) A designation shall be made for any taxable year on the  
15    initial return for that taxable year and once made is irrevocable. If  
16    payments and credits reported on the return, together with any  
17    other credits associated with the taxpayer's account, do not exceed  
18    the taxpayer's liability, the return shall be treated as though no  
19    designation has been made.

20    (d) If an individual designates a contribution to more than one  
21    account or fund listed on the tax return, and the amount available  
22    is insufficient to satisfy the total amount designated, the  
23    contribution shall be allocated among the designees on a pro rata  
24    basis.

(e) When another voluntary contribution designation is removed from the tax return, the Franchise Tax Board shall revise the form of the return to include a space labeled the “Low Cost/Free Spay-Neuter Fund” to allow for the designation permitted. The form shall also include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to provide low cost or free spay-neuter services associated with a municipal shelter in California.

(f) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 for any contribution made pursuant to subdivision (a).

18755.1. There is hereby established in the State Treasury the Low Cost/Free Spay-Neuter Fund to receive contributions made pursuant to Section 18755. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18755 to be transferred to the Low Cost/Free Spay-Neuter Fund. The Controller shall transfer from the Personal Income Tax Fund to the Low Cost/Free Spay-Neuter Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18755 for payment into that fund.

18755.2. All money transferred to the Low Cost/Free Spay-Neuter Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the Department of Food and Agriculture ~~for allocation to~~ *for distribution of grants to eligible* municipal shelters for the purposes of providing low cost or free spay-neuter services. The department may use up to 5 percent of the money allocated to municipal shelters for administrative costs incurred in connection with the Low Cost/Free Spay-Neuter Fund.

(2) For the purposes of this article, ~~“municipal”~~ *“eligible municipal shelter”* means a city or county animal control agency or shelter *that is current on its reporting requirements to the State Department of Public Health, Veterinary Public Health Section,*

1 *and offers spay and neuter services for dogs and cats owned by*  
2 *individual members of the public.*

3 *(c) (1) Grants distributed pursuant to this article shall be made*  
4 *available for the purposes of providing spay and neuter services*  
5 *and programs for dogs and cats owned by individual members of*  
6 *the public. Special consideration and priority shall be given to*  
7 *eligible municipal shelters that offer free or low cost spay and*  
8 *neuter services and programs targeted to low- to moderate-income*  
9 *communities and individuals.*

10 *(2) No grant shall be made, and no grant funds shall be used,*  
11 *to spay or neuter any animal that is impounded by an eligible*  
12 *municipal shelter. If the Department of Food and Agriculture*  
13 *determines that an eligible municipal shelter has misused its grant*  
14 *funds, that shelter shall no longer be eligible for grants distributed*  
15 *pursuant to this article.*

16 18755.3. (a) Except as otherwise provided in subdivision (b),  
17 this article shall remain in effect only until January 1 of the fifth  
18 taxable year following the first appearance of the Low Cost/Free  
19 Spay-Neuter Fund on the tax return, and as of that date is repealed,  
20 unless a later enacted statute, that is enacted before the applicable  
21 date, deletes or extends that date.

22 (b) (1) By September 1 of the second calendar year and by  
23 September 1 of each subsequent calendar year that the Low  
24 Cost/Free Spay-Neuter Fund appears on the tax return, the  
25 Franchise Tax Board shall do all of the following:

26 (A) Determine the minimum contribution amount required to  
27 be received during the next calendar year for the fund to appear  
28 on the tax return for the taxable year that includes that next calendar  
29 year.

30 (B) Provide written notification to the Department of Food and  
31 Agriculture of the amount determined in subparagraph (A).

32 (C) Determine whether the amount of contributions estimated  
33 to be received during the calendar year will equal or exceed the  
34 minimum contribution amount determined by the Franchise Tax  
35 Board for the calendar year pursuant to subparagraph (A). The  
36 Franchise Tax Board shall estimate the amount of contributions  
37 to be received by using the actual amounts received and an estimate  
38 of the contributions that will be received by the end of that calendar  
39 year.

1 (2) If the Franchise Tax Board determines that the amount of  
2 the contributions estimated to be received during a calendar year  
3 will not at least equal the minimum contribution amount for the  
4 calendar year, this article is repealed with respect to taxable years  
5 beginning on or after January 1 of that calendar year.

6 (3) For purposes of this section, the minimum contribution  
7 amount for a calendar year means two hundred fifty thousand  
8 dollars (\$250,000) for the second calendar year after the first  
9 appearance of the Low Cost/Free Spay-Neuter Fund on the personal  
10 income tax return or the adjusted minimum contribution amount  
11 adjusted pursuant to subdivision (c).

12 (c) For each calendar year, beginning with the third calendar  
13 year after the first appearance of the Low Cost/Free Spay-Neuter  
14 Fund on the tax return, the Franchise Tax Board shall adjust, on  
15 or before September 1 of that calendar year, the minimum  
16 estimated contribution amount specified in subdivision (b) as  
17 follows:

18 (1) The minimum estimated contribution amount for the calendar  
19 year shall be an amount equal to the product of the minimum  
20 estimated contribution amount for the prior September 1, multiplied  
21 by the inflation factor adjustment as specified in paragraph (2) of  
22 subdivision (h) of Section 17041, rounded off to the nearest dollar.

23 (2) The inflation factor adjustment used for the calendar year  
24 shall be based on the figures for the percentage change in the  
25 California Consumer Price Index received on or before August 1  
26 of the calendar year pursuant to paragraph (1) of subdivision (h)  
27 of Section 17041.

28 (d) Notwithstanding the repeal of this article, any contribution  
29 amounts designated pursuant to this article prior to its repeal shall  
30 continue to be transferred and disbursed in accordance with this  
31 article as in effect immediately prior to that repeal.